

REMARKS

This Amendment is being filed in response to the Final Office Action mailed on October 31, 2008, and the Advisory Action mailed on January 21, 2009 which has been reviewed and carefully considered. Reconsideration and allowance of the present application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-11 remain in this application, where claims 8-11 have added. Claim 1 is independent.

In the Final Office Action, claims 1-4 are rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No. 5,661,703 (Moribe). Claims 5-6 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Moribe in view of U.S. Patent No. 6,125,089 (Shigemori). Further, claim 7 is rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Moribe in view of Shigemori and U.S. Patent No. 7,280,461 (Endoh). Applicants respectfully traverse and submit that claims 1-11, as amended, are patentable over Moribe, Shigemori and Endoh for at

least the following reasons.

Moribe is directed to an optical recording medium in which a medium identification code is recorded by using a nonvolatile mark which is formed through irreversible change of a recording film. Recording and reproducing programs reproduce the medium identification code, and encode/decode data based on the reproduced medium identification code. This prevents making or using an illegal copy onto another disk. As correctly noted in the Advisory Action, in Moribe, the medium identification code area is the first area.

In stark contrast, the present invention as recited in independent claim 1, amongst other patentable elements, recites (illustrative emphasis provided):

first area and a second area comprising a rewritable material, said first area being defined as a read-only area by type information recorded on said data carrier in an unerasable way in a type area which is different from said first area.

Defining a first area as a read-only area by type information recorded on the data carrier in an unerasable way in a type area which is different from the first area is nowhere disclosed or

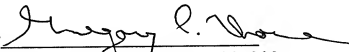
suggested in Moribe. Rather, the Moribe the medium identification code area is the first area, or the same area that includes the identification code. Further, the Moribe medium identification code has nothing to do with defining any portion of the disk as a read-only area. Shigemori and Endoh are cited to allegedly show other features and do not remedy the deficiencies in Moribe.

Accordingly, it is respectfully submitted that independent claim 1 is allowable, and allowance thereof is respectfully requested. In addition, it is respectfully submitted that claims 2-11 are also allowable at least based on their dependence from amended independent claim 1.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

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